

BILL ANALYSIS

C.S.H.B. 3427
By: Lavender
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In certain parts of Texas, particularly those counties that share borders with other states, coordinating care for mental health patients can be difficult. Federal law requires a hospital to stabilize a patient who presents for emergency treatment, regardless of the state in which the person resides. If an out-of-state patient requires an involuntary commitment to a mental health facility, it can be difficult to get that individual back to the individual's home state to receive appropriate treatment. The situation can be complicated further if such a patient is in a hospital without an available inpatient bed. Such circumstances can prove harmful to the patient, who is not getting the proper care, and can be especially burdensome on the hospital because the patient must be held in an emergency room until being involuntarily committed and transferred to an appropriate facility. C.S.H.B. 3427 seeks to address this issue by providing for reciprocal agreements between states regarding the return of certain mental health patients.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 3427 amends the Health and Safety Code to authorize the Department of State Health Services (DSHS) to enter into reciprocal agreements with the state or local authorities, rather than with proper agencies, of other states to facilitate the return of persons committed to mental health facilities in Texas or another state to the states of their residence and clarifies that the state returning a committed patient to another state is required to bear the expenses of returning the patient, unless the state agrees to share costs under a reciprocal agreement. The bill specifies that DSHS is authorized to return a nonresident patient committed to a mental health facility under a reciprocal agreement, in addition to a patient committed to a DSHS mental health facility, to the proper agency of the patient's state of residence and expands the definition of "mental health facility" to include, with respect to a reciprocal agreement, any hospital or facility designated as a place of commitment by DSHS, a local mental health authority, and the contracting state or local authority.

C.S.H.B. 3427 requires DSHS, if a state or local authority of another state petitions DSHS, to

enter into a reciprocal agreement with the state or local authority to facilitate the return of persons committed to mental health facilities in Texas to the state of their residence unless DSHS determines that the terms of the agreement are not acceptable. The bill requires such a reciprocal agreement entered into by DSHS to require DSHS to develop a process for returning persons committed to mental health facilities to their state of residence and requires the process to provide suitable care for the person committed to a mental health facility, use available resources efficiently, and consider commitment to a proximate mental health facility to facilitate the return of the committed patient to the patient's state of residence. The bill requires DSHS to coordinate, as appropriate, with a mental health facility, a mental hospital, health service providers, courts, and law enforcement personnel located in the geographic area nearest the petitioning state.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3427 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

SECTION 1. Sections 571.008(c) and (e), Health and Safety Code, are amended to read as follows:

(c) Subject to Section 571.0081, the [The] department may enter into reciprocal

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 571.003(12), Health and Safety Code, is amended to read as follows:

(12) "Mental health facility" means:

(A) an inpatient or outpatient mental health facility operated by the department, a federal agency, a political subdivision, or any person;

(B) a community center or a facility operated by a community center; ~~or~~

(C) that identifiable part of a general hospital in which diagnosis, treatment, and care for persons with mental illness is provided; or

(D) with respect to a reciprocal agreement entered into under Section 571.0081, any hospital or facility designated as a place of commitment by the department, a local mental health authority, and the contracting state or local authority.

SECTION 2. Sections 571.008(a), (c), and (e), Health and Safety Code, are amended to read as follows:

(a) The department may return a nonresident patient committed to a department mental health facility or other mental health facility under Section 571.0081 to the proper agency of the patient's state of residence.

(c) Subject to Section 571.0081, the [The] department may enter into reciprocal

agreements with the state or local authorities, as defined by Section 571.0081, [proper agencies] of other states to facilitate the return of persons committed to mental health facilities in this state or another state to the states of their residence.
(e) The state returning a committed patient to another state shall bear the expenses of returning the patient, unless the state agrees to share costs under a reciprocal agreement under Section 571.0081.

SECTION 2. Chapter 571, Health and Safety Code, is amended by adding Section 571.0081.

SECTION 3. The change in law made by this Act to Chapter 571, Health and Safety Code, applies only to a reciprocal agreement between the state and another entity entered into on or after the effective date of this Act. A reciprocal agreement entered into between the state and another entity before the effective date of this Act is governed by the law in effect on the date the reciprocal agreement was entered into, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2013.

agreements with the state or local authorities, as defined by Section 571.0081, [proper agencies] of other states to facilitate the return of persons committed to mental health facilities in this state or another state to the states of their residence.
(e) The state returning a committed patient to another state shall bear the expenses of returning the patient, unless the state agrees to share costs under a reciprocal agreement under Section 571.0081.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.